



Montgomery County Commission on Juvenile Justice

**Senate Bill 165 – Juvenile Court – Jurisdiction
Judicial Proceedings Committee – January 27, 2022
FAVORABLE**

Thank you for the opportunity to submit written testimony on behalf of the Montgomery County Commission on Juvenile Justice (MC CJJ) on Senate Bill 165.

MC CJJ was established to advise the Montgomery County Executive, County Council and the Juvenile Court on matters concerning juvenile justice. Our work includes gathering and disseminating information from public and private agencies serving youth, monitoring juvenile justice programs and services, visiting facilities, closely following relevant State and local legislation, and making recommendations regarding juvenile needs. MC CJJ is composed of appointed, volunteer citizen members, and agency members that include the Child Welfare Services Program, the Montgomery County State’s Attorney’s Office, the Office of the Public Defender, the Montgomery County Police Department, Montgomery County Public Schools, and the Maryland Department of Juvenile Services.

The MC CJJ strongly supports Maryland Senate Bill 165. This legislation will end automatic charging of young people as adults in Maryland by repealing provisions that send individuals as young as 14 years of age directly into adult court if they are accused of committing any one of 33 specified offenses.

Automatic charging is an unacceptable departure from the philosophy on which the separate system for juvenile justice was established in the first place--namely, that children are different from adults and should be served by a system that is focused on rehabilitation, not punishment. SB 165 does not foreclose the possibility of a particular child being charged as an adult in those instances where a case can be made that the child is “unfit” for rehabilitation. However, we strongly believe that the burden of proof should be on the prosecutor to convince the juvenile court judge that the child should be transferred. We cannot support putting the burden on a young person and their defense counsel to make the case that a child should be afforded the benefits of a system that was established for the very purpose of serving all children. We see the “reverse waiver” process that is now in place as costly, inefficient, and most importantly, harmful to young people who are detained pending a decision.

Automatic charging children as adults also conflicts with what we now know about adolescent development from brain science. In fact, such science has informed several Supreme Court decisions around harsh sentencing of youth, noting that children are less blameworthy and have

substantial capacity to change.¹ Automatic charging inappropriately defines a child by the nature of the offense without attention to individual factors relating to the offense, and the child's background and needs, which should be part of any decision to transfer a child to adult court.

When young people are incarcerated in adult prisons they are at substantial risk of being victimized and dying from suicide and are deprived of services and treatment available in the juvenile justice system that are critical to addressing their behavioral, mental health, developmental, and education needs. Providing young people access to developmentally appropriate rehabilitative services is not only necessary for their health and well-being, but also critical to public safety, as research tells us that incarceration in an adult prison puts a young person at increased risk of recidivism.²

Finally, we are concerned about the racial disparities that automatic charging appears to reinforce. Over 80 percent of the young people who are automatically charged in Maryland are Black—in a State in which Black children represent about 31 percent of the population of children between 5 and 17.³

Passing SB 165 will bring Maryland a step closer to protecting the human rights of some of its most vulnerable young people.

For these reasons, we strongly urge you to support this bill and strongly urge a favorable Committee report.

Sincerely,



Chris Jennison, Chair
Montgomery County Commission on Juvenile Justice

Tracey Friedlander

Tracey Friedlander, Vice-Chair
Montgomery County Commission on Juvenile Justice

¹Josh Rovner, "Juvenile Life Without Parole: An Overview," The Sentencing Project (May 24, 2021), <https://www.sentencingproject.org/publications/juvenile-life-without-parole/>

²Jerree Thomas, "Youth Transfer: The Importance of Individualized Factor Review," Campaign for Youth Justice (March, 2018), http://www.campaignforyouthjustice.org/images/20180314_CFYJ_Youth_Transfer_Brief.pdf; Human Impact Partners, Juvenile InJustice: Charging Youth as Adults is Ineffective, Biased, and Harmful (February 2017), p. 21-22, <https://humanimpact.org/hipprojects/juvenile-injustice-charging-youth-as-adults-is-ineffective-biased-and-harmful/>; Report of the Attorney General's Task Force on Children Exposed to Violence (2012), p. 190, <https://www.justice.gov/defendingchildhood/cev-rpt-full.pdf>

³See reports submitted by the Maryland Governor's Office of Crime Prevention, Youth, and Victim Services on Juveniles Charged as Adults in Maryland for 7/1/19-12/31/19 and 1/1/19-6/30/2019. <http://goccp.maryland.gov/reports-publications/juveniles-reports/juveniles-charged-adults-hb-943/>

